

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ORIGINAL

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

HATTIE WILLIAMS,

Plaintiff,

v.

WAL-MART STORES EAST, LP,
NOLAN BOOKER and
JOHN DOES 1-4,

Defendants.

AUG - 7 2009

JAMES N. HATTEN, CLERK
By: *[Signature]* Deputy Clerk

CIVIL ACTION FILE NO:
NO:

1:09-CV-2162

NOTICE OF REMOVAL

-GET

COMES NOW, Defendants Wal-Mart Stores East, LP, and Nolan Booker, (hereinafter "Defendants") in the above-captioned matter, by and through its counsel of record, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit in the State Court of DeKalb County, Georgia, which is within the Atlanta Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 09A08102-5. Plaintiff's claims against Defendants include allegations of negligence.

2.

Plaintiff filed the Complaint on or about June 1, 2009. Defendant Wal-Mart Stores East, LP received service of summons and a copy of the Complaint on June 9, 2009. Defendant Nolan Booker has never been served. Defendants are filing this Removal within thirty (30) days after it becoming removable; Defendants having removed this matter within

thirty (30) days of receipt of Plaintiff's responses to Defendant Wal-Mart Stores East, LP's Request for Admission of Fact, Interrogatories, and Request for Production of Documents. Said responses, as outlined more specifically in Paragraph No. 8 hereof, establish Plaintiff's claim for damages exceeding \$75,000.00.

3.

Defendant Wal-Mart Stores East, LP is a Delaware corporation with its principal place of business in the State of Arkansas. Defendant Wal-Mart Stores East, LP was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of said lawsuit, or at any time thereafter.

4.

Defendant Booker was not a citizen of Georgia at the time of or immediately prior to the filing of said lawsuit, or at anytime thereafter. At all times necessary herein, Defendant Booker was a resident of Louisiana.

5.

Plaintiff Hattie Williams is a citizen of the State of Georgia.

6.

Complete diversity of citizenship exists between Plaintiff and Defendants.

7.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendants.

8.

Plaintiff's claim for damages exceeds the \$75,000 jurisdictional threshold. Plaintiff recently answered a set of Requests for Admission of Facts essentially denying

that this case is worth less than \$75,000.00. A true and complete copy of said responses to Defendant's Request for Admission of Facts is attached hereto as Exhibit "A". On or about July 28, 2009, Plaintiff responded to Defendant's Interrogatories and Request for Production of Documents. In her responses, Plaintiff alleges she has incurred serious and debilitating injuries to her head, neck, and back as a result of this incident. See Plaintiff's Interrogatory Response No. 13 & No. 33. On or about July 28, 2009, Plaintiff provided Defendant with medical bills which total in excess of \$40,000.00, plus medical records establishing Plaintiff's claim that she has had knee replacement surgery with an extended hospitalization as a result of this incident. Portions of the records Plaintiff recently produced to substantiate these claims are collectively attached as Exhibit "B".

9.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendants have attached as Exhibit "C" copies of all the pleadings that were provided to and served upon Defendants, including copies of all pleadings that have been filed to date in the State Court of DeKalb County, Georgia for the above-styled case.

10.

Pursuant to 28 U.S.C. § 1446, Defendants are not required to file a removal bond.

11.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

12.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of DeKalb County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendants pray that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

McLAIN & MERRITT, P.C.



Albert J. DeCusati
Georgia Bar No. 215610
Attorney for Defendants